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5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA  
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8 UNITED STATES OF AMERICA,

9 Plaintiffs,

10 vs.

11 LEONARD DELIS, JR.,

12 Defendants.  
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Case No. 2:09-cr-00386-JCM-GWF

**ORDER**

14 This matter is before the Court on Defendant Leonard Delis's Motion to Suppress  
15 Involuntary and Uncounseled Statements (#27), filed on April 7, 2010. Defendant contends that  
16 following his arrest on February 12, 2010, North Las Vegas Police officers questioned him without  
17 advising him of his *Miranda* rights. Defendant further contends that he refused to speak with the  
18 officers and invoked his right to remain silent, but that he was transported to the police station  
19 where he was further interrogated without his consent and without being advised of his *Miranda*  
20 rights. The Court conducted an evidentiary hearing on August 31, 2010.

21 According to the testimony of North Las Vegas Police Officers Brian Booker and Steven  
22 Wiese, Defendant was a suspect in a burglary ring and there was a warrant for his arrest. On  
23 February 12, 2010, the officers were conducting surveillance near the apartment complex where  
24 Defendant resided. Upon observing Defendant, Officer Booker or Wiese requested that uniformed  
25 officers take him into custody. Defendant was in the uniformed officers' custody for approximately  
26 five minutes before Booker and Wiese arrived to take him into their control. Officer Wiese  
27 escorted Defendant to an area away from the uniformed officers where he advised Defendant of his  
28 *Miranda* rights. Both officers testified that Defendant acknowledged understanding his rights and

1 agreed to speak to the officers. Detective Flory Stucky testified that Defendant also agreed to speak  
2 with her and to go to the police station or detective bureau office to be interviewed.

3 Defendant's counsel stated that he was not aware until the evidentiary hearing that  
4 Defendant had been taken into custody by uniformed officers before he was contacted by Officers  
5 Booker or Wiese. Defendant's counsel requests that he have the opportunity to examine the two  
6 uniformed officers in regard to any interrogation that may have occurred before Defendant was  
7 allegedly advised of his *Miranda* rights. Defendant's counsel argues that if Defendant was  
8 subjected to substantive interrogation prior to being advised his rights, then his subsequent *post-*  
9 *Miranda* statements may also be subject to suppression. *See Missouri v. Seibert*, 542 U.S. 600, 124  
10 S.Ct. 2601 (2004); *compare Oregon v. Elstad*, 470 U.S. 298, 105 S.Ct. 1285 (1985). Defendant  
11 also wishes to question the uniformed officers as to whether they observed Officer Wiese advise  
12 Defendant of his rights and whether Defendant waived his rights.

13 Although there is no evidence that Defendant Delis was subjected to substantive  
14 questioning by the uninformed officers, he was in their custody for approximately five minutes  
15 before Officers Booker and Wiese arrived on scene. It is therefore possible that the uniformed  
16 officers questioned Defendant during this period and/or that they observed whether Defendant was  
17 informed of his *Miranda* rights by Officer Wiese and whether he waived those rights.

18 Accordingly, the Court will grant Defendant's request that the two uniformed officers who  
19 were identified during the hearing be called to testify on September 10, 2010 at 9:30 a.m.

20 **IT IS SO ORDERED.**

21 DATED this 3rd day of September, 2010.

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24 GEORGE FOLEY, JR.  
25 U.S. MAGISTRATE JUDGE  
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